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DECISION



UNDERMAN
P.L. II
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-189129

DATE: December 16, 1977

MATTER OF: Ford Aerospace & Communications Corporation

DIGEST:

Agency decision to make partial award to low offeror for one line item and to procure other line item services from Federal Supply Schedule contractors is consistent with solicitation provisions and therefore not subject to legal objection.

Ford Aerospace & Communications Corporation (Ford) protests the award of a contract under request for proposals (RFP) DAADC7-77-R-0003 issued by the U.S. Army White Sands Missile Range, White Sands, New Mexico.

That solicitation was for the procurement of preventive and corrective maintenance for Government-operated, Government-owned, Automatic Data Processing Equipment produced by four (4) different manufacturers. Each manufacturer's equipment was identified in a separate line item in the solicitation, with line item 0004 (Univac equipment) encompassing the major effort being procured. Control Data Corporation (CDC), Ford and Univac, were determined to be technically acceptable, and each was requested to submit a best and final offer. CDC and Ford submitted offers on all line items, while Univac offered to service only line item 0004, equipment manufactured by Univac. Although the solicitation contemplated a four (4) month contract award, with two (2) one year options, evaluation was to be made based on the entire twenty-eight (28) month period.

Both Ford and CDC conditioned their final offers on the award of line item 0004, i.e., they would not accept the award of other line items without the award of line item 0004.

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The offers received were as follows:

| <u>OFFEROR</u> | <u>Item 1</u> <u>AMPEX</u> <u>Equipment</u> | <u>Item 2</u> <u>EM&M</u> <u>Equipment</u> | <u>Item 3</u> <u>IBM</u> <u>Equipment</u> | <u>Item 4</u> <u>UNIVAC</u> <u>Equipment</u> | <u>TOTAL</u> |
|----------------|---|--|---|--|----------------|
| CDC | \$12,158.70 | \$44,238.82 | \$304,439.72 | \$2,008,476.29 | \$2,369,313.53 |
| Ford | 30,652.00 | 28,184.00 | 321,784.00 | 1,938,648.00 | 2,319,268.00 |
| Univac | - | - | - | 1,868,104.00 | 1,868,104.00 |

Award was made to Sperry Univac for item 0004, and no awards made for items 0001-0003, because of the qualified offers of Ford and CDC. The contracting officer determined that the requirements for items 0001-0003 would, as in the past, be obtained from Federal Supply Schedule (FSS) contractors.

The RFP contained the following pertinent language:

"C.14 SINGLE OR MULTIPLE AWARDS

'C14.1 The Government may award one or more contracts as a result of this solicitation. See paragraph D.3.6.

'C.14.1.1 Offerors may submit proposals for all contract line items * * * and sub-line items, and corresponding renewal periods, or any contract line item and sub-line items thereto, and corresponding renewal periods.

'C.14.1.2 To be responsive to this solicitation, proposals must price all contract sub-line items for the contract line item.

* * *

"D.3.6 EVALUATION OF BIDS FOR MULTIPLE AWARDS
(1975 OCT)

In addition to other factors, bids will be evaluated on the basis of advantages or

disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of \$100 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs."

The agency reports that paragraph C.14 was included in the solicitation to "broaden competition by allowing Original Equipment Manufacturers to bid on the contract line items concerned with the maintenance of their equipment rather than restricting competition to Third Party Maintenance vendors such as Ford." The agency further states that prior to the request for best and final offers, each offeror was advised that the low offeror for each line item would be awarded a contract for that line item, i.e., that the low aggregate price would not be the basis of award since some firms did not propose on all line items. Subsequently, the Army states, Ford revised its prior "all or none" offer and agreed to accept any combination of line items, so long as the award included line item 0004 (the Univac equipment). The agency points out that it therefore would have awarded a contract to Ford for item 0002, on which Ford was low by \$16,054, if it had not been precluded from doing so as a result of the Ford condition that item 0004, on which it was not low, be included in the award.

Subsequent to a conference held on the protest in accordance with our Bid Protest Procedures, 4 C.F.R. Part 20 (1977), Ford filed a "written explanation of its position" in the protest. Ford initially complained that the award did not comport with the evaluation formula in the RFP, and in its later comments and its explanation of its position, Ford also took issue with the "techniques used in developing estimated costs to the Government for line items 0001-0003 from the Federal Supply Schedules."

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It did not claim that it was entitled to award as the low aggregate offeror under the RFP nor did it dispute the contracting officer's assertions regarding the award basis. We think that the foregoing can reasonably be taken as indicating that Ford understood that the "lowest aggregate price" received under the RFP would not be the basis of the award.

Ford disagrees with the "techniques" used by the Army to develop the estimated costs under the FSS because in Ford's view the RFP called for more than what the Army took into account in estimating FSS costs. Ford states that the RFP required a vendor to furnish for one fixed price, on-call maintenance at any time, while the FSS estimated costs were based on limiting expensive maintenance requests outside the prime period to the number of calls shown to be necessary by prior experience. In other words, under the RFP, for the fixed contract price, the contractor had to be prepared to furnish services on a 7-day multi-shift basis, while the FSS evaluation did not reflect the same level of service. Ford claims that if the FSS prices were evaluated on an equivalent basis, its aggregate price would be lower than the combination of the FSS price estimate and the Univac contract price.

We fail to see the relevance of this argument. The award was not based on the comparative evaluation complained of. As reported by the Army, the Staff Judge Advocate, in response to Ford's protest, projected the cost of the maintenance services under the FSS contracts to show that those costs, when added to Univac's price, would be lower than Ford's price. However, in deciding to make award to Univac, the contracting officer did not assess the overall cost impact to the Government resulting from award to Sperry Univac and continued use of FSS services for the unawarded portions of the RFP. As stated by the contracting officer:

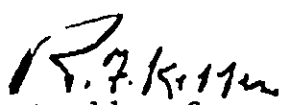
"In order to assess the overall cost impact to the Government resultant from an award to Univac

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of Line Item 0004 and the continuation of services under GSA Schedules for the other three line items, it would have been necessary to introduce into the evaluation procedure extraneous data from sources other than the proposals received. Additionally, such introduction of pricing data was not necessary under the evaluation procedure used. The low offeror for each line item including the options was to be awarded the contract for that particular line item."

Under paragraph 10(c), Standard Form (SF) 33A, included in the solicitation, the Government could make an award for less than all line items. Thus, Ford could not complain if the Government decided not to procure the services required under items 0001-0003, and the decision not to award items 0001-0003 was in fact a decision not to procure the services under the RFP. The statement that "awards will be for items or combinations of items which result in the lowest aggregate price" is predicated on awards being made under the RFP. Read in conjunction with paragraph 10(c), SF 33A, it does not require award of all items sought to be procured. See What-Mac Contractors, Inc., et al, B-187053 (1), November 19, 1976, 76-2 CPD 438; A.C. Manufacturing Company, B-186298, August 9, 1976, 76-2 CPD 137. Therefore, we cannot find that the award was improper and we agree with the contracting officer that consideration of FSS prices into the evaluation scheme would be an introduction of "extraneous data from sources other than the proposals received" so that we need not determine the correctness of the agency's ultimate calculation of those prices.

The protest is denied.


Deputy Comptroller General
of the United States